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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,534	10/25/2001	David B. Lloyd	345008003US1	4416

25096 7590 10/21/2003

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EXAMINER

ENATSKY, AARON L

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 10/21/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/004,534

Applicant(s)

LLOYD ET AL.

Examiner

Aaron L Enatsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

Response to Amendment

Examiner acknowledges receipt of amendment on 7/28/03. The arguments set forth in the response are addressed herein below. Rejections based upon this prior art are contained herein below. Furthermore, the prior art rejections of record are being maintained for the reasons set forth in the response to argument section herein.

Drawings

New corrected drawings are required in this application because screenshots or screen captures used to represent drawing figures are informal. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-19 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,527,641 to Sinclair et al. (Sinclair) in view of US Patent No. 6,470,180 to Kotzin et al. ("Kotzin").

Sinclair teaches a wireless game played by one or more users, where a remote game server tracks the game state (1:48-67). Furthermore, user interaction with the game controls the game state (1:48-67), the game can be saved in the current state at any time (10:51-52), and the game can be restored from a previous state (Fig. 17N). The game system can employ hyperlink technology that includes WML to advance the game state (5:5-29), which can be implemented using wireless phones on existing cellular networks (Fig. 3 and 18:9-12). Sinclair also teaches the possibility of user mobile stations using a variety of input devices, which would teach a variety of user devices (19:4-7). Sinclair does not specifically teach using different client terminals/devices to play a network game. Kotzin teaches a network game system that can incorporate a wide variety of terminals/devices to participate in the network game (2:48-53). Kotzin also teaches that a wide variety of terminals for use with a network game are necessary to meet the high demand for network gaming (1:40-60). One would be motivated to modify Sinclair

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to use the variety of game terminals taught by Kotzin to provide a highly available game that is suitable for multiple platforms to meet the great demand for network gaming. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made modify Sinclair using a variety of devices to increase game availability, thus a creating larger potential user base, to meet high game demand. In regard to claims directed at logging on to different sessions on different game machines, Applicant is attempting to distinguish claims over prior art using one of the most basic tenants of multi-user, network connected machines. Multi-user, network connected machines are grounded to the concept of program availability where network connectivity can be established. While the specific feature is unstated in Sinclair in view of Kotzin, it is considered well within the capabilities of one of ordinary skill in the art to allow game connectivity independent of the end user device, especially in light of the availability of persistent game states.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sinclair in view of Kotzin as applied to claims 1-5, 7-19 above, and further in view of US Patent No. 5,890,963 to Yen. Sinclair in view of Kotzin teaches the claimed limitations as discussed above, but does not teach game state progressing beyond a saved game state at the end of a first session. Yen teaches a wireless interactive game that allows for continuous and progressive game play (Abstract). Yen further teaches that the game will continues to progress even if a game participant is not connected and playing a game (6:34-43). Sinclair in view of Kotzin and Yen are related as analogous wireless game systems, where both systems allow multiple participants in a mobile wireless game. One would be motivated to modify Sinclair in view of Kotzin to include the progressive game play taught by Yen to add a sense of realism to Sinclair in view of Kotzin's

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existing game. Sinclair in view of Kotzin provides further motivation through disclosing the potential of adding real world data to affect the game state. By allowing a game to progress while not connected, as taught by Yen, the game environment/situations would be given a greater sense of uncertainty, lending to game realism. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sinclair in view of Kotzin to include progressive game play taught by Yen to provide a player with a more realistic game

Response to Arguments

Applicant's arguments filed 7/2/03 have been fully considered but they are not persuasive. Examiner has provided a modified response in light of Applicant's submitted amendments and arguments. The response is detailed above in the new rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron L Enatsky whose telephone number is 703-305-3525. The examiner can normally be reached on 8-6 M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Aaron Enatsky
October 17, 2003


Teresa Walberg
Supervisory Patent Examiner
Group 3700